

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of the amendments contained herein, claims 8, 9, 11-15, 24, 31, and 33-35 will remain pending in the present application.

Claims 8, 9, 11, 13-15, and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,741,123 to Pauley (“the ‘123 patent”) in view of U.S. Patent No. 4,653,976 to Blair (“the ‘976 patent”) and U.S. Patent No. 6,224,335 to Parisi et al (“the ‘335 patent”). Claims 31 and 33 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,957,107 to Sipin (“the ‘107 patent”). Applicant respectfully traverses these rejections for the reasons presented below.

As noted on pages 3-5 of the present application, current pressure support systems control the flow of breathing gas so that the output pressure delivered to the patient is substantially constant by measuring the pressure and/or flow rate in the patient circuit and controlling the pressure generating device based on feedback signals that are based on the measured pressure and/or flow rate. The present invention provides a system and method for delivering substantially constant pressure to the patient over a range of flow rates that does not employ such feedback control. Thus, claim 8, as amended, recites a pressure support system “wherein the pressure generator receives gas from the source of gas and, based on a preselected pressure of between 10-65 cmH₂O and responsive to a range of flow rates in the patient circuit from 10-150 l/min, outputs a flow of breathing gas having a pressure within a standard deviation of no more than 1.5 cmH₂O of the preselected pressure without feedback control of the pressure generator based either or both of a pressure in the patient circuit or a flow rate in the patient circuit.” The cited art does not teach or suggest pressure support system having this feature.

The ‘123 patent describes a turbocharger 10 having an impeller 30 that is shown in FIGS. 2 and 3 of the ‘123 patent. The impeller 30 includes an elevated fan 36 having fan

blades 44 centered about opening 40. The impeller 30 also includes curved, downward sloping impeller blades 48, each one secured to a fan blade 44 and provided on a base disc 42.

The '976 patent describes a gas turbine engine that includes centrifugal impeller 26 that includes integral blades 38 and splitter blades 40 which are provided on a first face of the impeller body.

The '335 patent describes an automotive air conditioning fan assembly that includes a fan 10 having a central hub 12 supporting circumferentially spaced, radially disposed blades 18.

The '107 patent describes a gas delivery system includes a compressor 10, driven by a motor 12, to supply pressurized gas to a patient circuit. The compressor motor is powered from a controllable electronic driver 20, and the compressor driver is controlled by a microcomputer 26 based on feedback signals received from a pressure transducer 40 that senses the pressure in the patient circuit.

It is therefore clear from the above that the '123 patent, the '976 patent, the '335 patent and the '107 patent, either alone or in combination, do not teach or suggest all of the limitations of amended claim 8. More specifically, those references do not teach or suggest a pressure support system "wherein the pressure generator receives gas from the source of gas and, based on a preselected pressure of between 10-65 cmH₂O and responsive to a range of flow rates in the patient circuit from 10-150 l/min, outputs a flow of breathing gas having a pressure within a standard deviation of no more than 1.5 cmH₂O of the preselected pressure without feedback control of the pressure generator based either or both of a pressure in the patient circuit or a flow rate in the patient circuit." Applicant thus respectfully submits that independent claim 8 is not anticipated or rendered obvious by the cited references. See M.P.E.P. § 2142 ("To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) must teach or suggest all the claim limitations.").

Independent claims 24 and 31 include limitations similar to those of independent claim 8 discussed above. Thus, the comments given above with respect to claim 8 are equally applicable to independent claims 24 and 31.

For the reasons presented above, Applicant respectfully submits that independent claims 8, 24 and 31 are not anticipated or rendered obvious by the cited references. In addition, claims 9, 11-15, and 33-35 are also not anticipated or rendered obvious due to their dependency from one of independent claims 8, 24 or 31. Accordingly, applicant respectfully requests that the above rejections of claims 8, 9, 11-15, 24, 31, and 33-35 be withdrawn.

It should be noted that the applicant has not addressed each rejection of the dependent claims. Any rejection of a dependent claim not specifically addressed is not to be construed as an admission by the application of the correctness of that rejection. Rather, the applicant believes that the independent claims are patentably distinguishable over the cited references for the reasons noted above, so that the rejection of the dependent claims need not be addressed at this time. Applicant reserves the right to address the rejection of any dependent claim at a later time should that become warranted.

This response is being filed within the three-month statutory response period which expires on February 23, 2011. In addition, no additional claim fees are believed to be required as a result of the above amendments to the claims. Nevertheless, the Commissioner is authorized to charge any fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 14-1270.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

/Philip E. Levy/

By: Philip E. Levy
Registration No. 40,700
For: Michael W. Haas
Reg. No.: 35,174

Mail all correspondence to:

Michael W. Haas, Esq.
Philips Intellectual Property & Standards
PO Box 3001
Briarcliff Manor, NY 10510-8001, USA
Phone: (724) 387-5026; e-mail: michael.haas@philips.com